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|-------------------------------|------------------------|---------------------|
| <b>Notice of Allowability</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                               | 10/079,489             | NIETHAMMER, BERND   |
|                               | <b>Examiner</b>        | <b>Art Unit</b>     |
|                               | Timothy P. Solak       | 3746                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to the amendment received on 04/01/2005.

2.  The allowed claim(s) is/are 8-13 and 22-26.

3.  The drawings filed on 01 May 2003 are accepted by the Examiner.

4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All    b)  Some\*    c)  None    of the:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

6.  CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

(a)  including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.

(b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

- 1.  Notice of References Cited (PTO-892)
- 2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
- 4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
- 5.  Notice of Informal Patent Application (PTO-152)
- 6.  Interview Summary (PTO-413),  
Paper No./Mail Date 04/02/2005.
- 7.  Examiner's Amendment/Comment
- 8.  Examiner's Statement of Reasons for Allowance
- 9.  Other \_\_\_\_\_.

## **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with William Foster on 04/01/2005.

The application has been amended as follows:

*In the Specification:*

The proposed amendment, attached, has been entered.

*In the Claims:*

In Claim 10, line 1, the claim identifier "(withdrawn)" has been deleted and --(currently amended)-- substituted therefore.

In Claim 11, line 1, the claim identifier "(withdrawn)" has been deleted and --(currently amended)-- substituted therefore.

In Claim 12, line 1, the claim identifier "(withdrawn)" has been deleted and --(currently amended)-- substituted therefore.

***Response to Arguments***

Applicant's arguments, see page 6, first paragraph, page 7, lines 7-11 and lines 18-22 and page 8, lines 19-23, filed 06/14/2004, have been fully considered and are persuasive. Accordingly the rejections set forth in the previous Office Action are hereby withdrawn.

***Reasons for Allowance***

The following is an examiner's statement of reasons for allowance: the prior art of record, does not teach or make obvious the apparatus of Claim 8, specifically a multiple stage pump for use in a hydraulically controlled fuel injector system comprising: at least two pumps and a first and a second check valve downstream from a first and a second pump; but more specifically at least two means for regulating and maintaining a linear flow control of fluid from the at least two pumps located downstream of the at least two pumps in respectively the same line as the at least two pumps. Said check valves located downstream of at the at least two means.

Spiesser et al. (EP 0 515 965) disclose valves that "regulate or control a volume flow over a wide range in linear dependence" (see abstract). However, the "linear dependence" disclosed by Spiesser et al. is not the same as instant invention and does not fulfill the claimed means plus function which is inclusive of eliminating pressure peaks (see page 7, first full paragraph and Figure 5).

Woody (5,682,845) teaches a valve (see Figure 6) used to regulate pressure peaks (column 8, lines 47-49), however valve 158 regulates pressure peaks in a chamber 114 and does

not regulate and maintain a linear flow control of fluid from at least two pumps. Therefore the function disclosed by Woody is not the same as the instant invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

*Claim Numbering*

The claims have been renumbered as follows for allowance. The following table contains the original claim number with the new corresponding claim number.

| <b>OLD</b> | <b>NEW</b> | <b>OLD</b> | <b>NEW</b> | <b>OLD</b> | <b>NEW</b> |
|------------|------------|------------|------------|------------|------------|
| 1          | Canceled   | 10         | 4          | 19         | Canceled   |
| 2          | Canceled   | 11         | 5          | 20         | Canceled   |
| 3          | Canceled   | 12         | 6          | 21         | Canceled   |
| 4          | Canceled   | 13         | 3          | 22         | 7          |
| 5          | Canceled   | 14         | Canceled   | 23         | 8          |
| 6          | Canceled   | 15         | Canceled   | 24         | 9          |
| 7          | Canceled   | 16         | Canceled   | 25         | 10         |
| 8          | 1          | 17         | Canceled   | 26         | 11         |
| 9          | 2          | 18         | Canceled   | ---        | ---        |

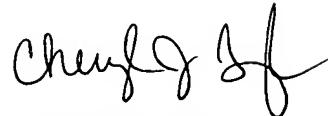
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy P. Solak whose telephone number is 571 272-4833. The examiner can normally be reached on Monday through Friday from 9am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on 571 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Timothy P. Solak  
Examiner  
Art Unit 3746  
April 2, 2005

  
CHERYL TYLER  
SUPERVISORY PATENT EXAMINER